

# **Exhibit 3**

# EXHIBIT N

## UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOAQUIN CARCANO; PAYTON GREY  
MCGARRY; H.S., by her next friend and  
mother, KATHRYN SCHAFER; ANGELA  
GILMIORRE; KELLY TRENT; BEVERLY  
NEWELL; and AMERICAN CIVIL  
LIBERTIES UNION OF NORTH  
CAROLINA,

No. 1:16-cv-00236-TDS-JEP

*Plaintiffs,*

v.

PATRICK MCCRORY, in his official  
capacity as Governor of North Carolina;  
UNIVERSITY OF NORTH CAROLINA;  
BOARD OF GOVERNORS OF THE  
UNIVERSITY OF NORTH CAROLINA;  
and W. LOUIS BISSETTE, JR., in his  
official capacity as Chairman of the Board  
of Governors of the University of North  
Carolina,

*Defendants.*

### **EXPERT OPINION OF SHERIFF TIM HUTCHISON (RETIRED)**

#### **Introduction**

I have been retained as an expert for the defense in this litigation to provide opinions relating to the public safety and privacy effects of what defendants describe as “GIBAPs”—“gender-identity”-based access policies for public facilities—and regarding the public safety and privacy implications of the North Carolina General Assembly’s response to GIBAPs in H.B.2. I have enclosed my Curriculum Vitae (attached as Exhibit A) as well. That document details my

education, qualifications, law enforcement training and experience in the public safety field. A list of materials I reviewed while making this opinion is attached as Exhibit B.

This is a preliminary report. As discovery is still underway, there may be a need for this report to be amended or supplemented.

### **Law Enforcement and Public Safety Experience**

1. I have over 33 years of experience in Law Enforcement.
2. I began working at the Knox County Sheriff's Office January 5, 1975. I worked myself up through the ranks in the following positions:
  - Process Server
  - Corrections Officer
  - Patrolman
  - Detective
  - Sergeant- Traffic Division
  - Founding member Knox County Sheriff's Office S.W.A.T. Team
  - Lieutenant Patrol Division
3. I ran successfully for the Office of Sheriff in 1990. The voters of Knox County reelected me to that position four more times. I retired as sheriff in 2007 only after the Tennessee Supreme Court ruled that I was term limited.
4. While I was Sheriff I was active in law enforcement organizations in Tennessee (Tennessee Sheriffs Association) and nationally (American Correctional Association & National Sheriffs Association). I was appointed to sit on the National Institute of Justice's Cyber Crime task force and assisted that group in writing law enforcement field investigation books about investigating cybercrime. In 1998, I received the honor of being selected by my peers in the National Sheriff's Association as the National Sheriff of the Year.
5. While serving as Sheriff, I was the Chief Law Enforcement Officer of Knox County under state statute (TCA 38-3-102).
6. As Sheriff I was responsible for developing and implementing public safety policy for the entire county.
7. The City of Knoxville is in and is a part of Knox County. Knox County also is home to the University of Tennessee.
8. I was therefore responsible for setting public safety for 520 square miles and a County population of approximately 400,000.
9. Throughout my career I have been involved in training Law Enforcement Officers, Corrections Officers, and Process Officers in all aspects of law enforcement and correctional facility management.

10. While Sheriff, I continually worked to identify problem areas and changing criminal behavior patterns, and would change the Department to meet the public safety needs of Knox County citizens.
11. While I served as Sheriff, the Sheriff's Office had over 1000 Employees with over 450 Certified Police Officers. Over one-third of the force were women and minorities.
12. The annual budget while I was Sheriff was over \$55 million. I managed all the jails in Knox County and housed approximately 1000 inmates daily.
13. During my career I also planned and staffed security with the Secret Service for two Presidential visits by President Ronald Reagan and two visits by President George W. Bush. While I was on the Sheriff's Office S.W.A.T. Team, I was assigned to work at times providing security for dignitaries at the 1982 World's Fair here in Knoxville, TN.
14. I also managed the public safety response to several disasters in our community while Sheriff, some requiring the evacuation of thousands of residents from their homes.
15. After noting an increase in sex offenses, I began a Sex Offender Task Force which has been lauded by the Tennessee Bureau of Investigation. Ours was the first unit in the region to hire full-time sex crimes investigators rather than continue the common practice of assigning sex crimes investigations to ordinary detectives on a rotating basis.
16. The Knoxville Police Department and the State Department of Parole and Probation joined the Task Force after we established it, and continue to work together with the Sheriff's office to reduce sex offenses
17. I implemented several specialized units or initiatives while Sheriff of Knox County:
  - Began a POST Certified Police Academy which has graduated hundreds of Certified Policeman for Knox County and several other jurisdictions.
  - Began a Police Aviation Division with 6 Helicopters.
  - Began a Marine Patrol for the Tennessee River and surrounding lakes.
  - Began a Senior Citizens Awareness Network (SCAN), where volunteers for the Sheriff's Office went out daily checking on elderly persons living alone or shut-ins.
  - Began the Sheriff's Office first K-9 Division consisting of Patrol/Drug dogs and cadaver dogs. The cadaver dogs were sent by me to assist in New York City following the collapse of the World Trade Centers where they worked for over 2 weeks.
  - Began a Computer Crimes Unit.



- After seeing a need for Law Enforcement Officers in schools in the mid 1990's, I placed Certified Officers in all high schools and middle schools, and in many elementary schools. This program is still in place today.
  - Adjusted Patrol Zones with information from the Computer Crimes Unit.
  - Built a new multi-million dollar Records Management System to better track crimes and offenders.
  - Began a Bomb Squad and acquired 2 bomb robots.
  - Planned and built two jails while Sheriff. Construction costs were \$30 million for one facility and \$600,000 for the other.
  - Planned and built a Police Training Center consisting of class rooms, 50-point outdoor firing range and a 20-point indoor firing range.
  - Began a TEEN Academy.
  - Served on the Board of Emergency 911 Center Knox/Knoxville TN.
18. Served on the Board of the Boys and Girls Club East Tennessee
  19. Served on the Tennessee Police Officers Standards and Training Commission as a Commissioner ("POST") from 1994 to 2002.
  20. Past Chairman of the Tennessee POST Commission.
  21. In 1998 I was selected as the National Sheriff of the Year by the National Sheriff's Association.
  22. Award by the Consul General of Israel for Counter Terrorism Training and Implementation.
  23. I worked on over 50 Homicides during my career, including sex offense homicides, with a Department solve rate of over 90%.
  24. While Sheriff, I worked with our staff attorneys to write a new General Order Notebook (SOP) and updated it regularly to keep it current with changes in the law. We then trained our Officers to comply with those changes.
  25. While Sheriff I started a Corrections Officer Basic School. Both this school and the Certified Police Academy exceeded the State minimums for training for Officers.
  26. During my career I made hundreds of arrests, for everything from minor misdemeanor offenses to thefts and sex offenses to murder.
  27. I am currently a Tennessee Licensed Private Investigator and work as a consultant and investigator for both plaintiffs and defendants in suits against government entities.

### **Education and Training**

1. Tennessee Law Enforcement Training Academy
2. Walters State Community College (Associate Degree Criminal Justice)

3. University of Virginia, F.B.I. National Academy Session 157
4. In addition, I have attended hundreds of hours of specialized law enforcement schools and was certified as a Police trainer/instructor by the F.B.I and the Tennessee Peace Officers Standards and Training Commission (POST).
5. Counter – Terrorism Training in Israel
6. F.B.I. Certified Handgun Instructor
7. F.B.I. Certified Anti-Sniper
8. F.B.I. Certified Hostage Negotiator
9. F.B.I. Certified Police Instructor
10. Certified Handgun Instructor Tennessee POST Commission
11. Tennessee State Handgun Permit Instructor certified by the Tennessee Department of Safety
12. F.B.I. Certified Advanced Firearms Instructor
13. F.A.A. Licensed Helicopter Pilot (I flew helicopter rescue missions in North Carolina after Hurricane Floyd, in New Orleans the first 11 days following Hurricane Katrina, and in Lake Charles, LA following Hurricane Rita).
14. Certified as a Homeland Security Expert by American Academy of Forensics.

#### **The North Carolina Controversy**

1. In February 2016 the City of Charlotte, North Carolina passed an ordinance (7056) allowing individuals to use public facilities based solely on their self-declared “gender identity” and not their biological sex.
2. The North Carolina General Assembly convened in an extra session to address this new ordinance and the ramifications it had for the entire State of North Carolina.
3. Since I continue to be interested in and concerned about public safety, I kept up with the events in Charlotte when the City Council there voted to add “gender identity” to their antidiscrimination law. I also followed the North Carolina General Assembly as they moved to block the Charlotte Ordinance.
4. On March 23, 2016 the General Assembly passed a bill (H.B.2) which blocked the Charlotte Ordinance and prevents any municipality or state facility from passing similar laws in the future.
5. H.B. 2 also requires that all public agencies with multiple occupancy bathrooms or changing facilities must designate those facilities for use only by individuals based on their biological sex, being male or female as determined on a person’s birth certificate.
6. North Carolina Governor Patrick McCrory signed H.B.2 into effect the same day.
7. In May 2016 the United States Department of Justice wrote letters notifying all named Defendants that it had determined that the Defendants were not in compliance with federal laws (Title VII, Title IX and/or VAWA).

8. The Department of Justice demanded that North Carolina ensure that transgender persons were entitled to use multiple occupancy bathrooms and changing facilities based on their “gender identity,” and threatened to take enforcement action against North Carolina if the state refused to comply.
9. The United States Department of Justice and private plaintiffs working with the ACLU filed separate federal lawsuits against North Carolina officials and institutions. The plaintiffs claim that H.B.2 intentionally discriminates against the transgendered.
10. I have reviewed the Complaints in both the ACLU and DOJ cases and am aware that the plaintiffs claim that “gender identity” (which they define as someone’s “internal sense” of what gender they are) should be the only thing that matters in determining who can use which public facilities (restrooms, changing rooms, locker rooms, etc.). I am also aware that the U.S. Department of Education and Department of Justice have recently issued guidelines for schools receiving public funds in which they make the same argument.

### **OPINIONS AND BASIS FOR OPINIONS**

My opinion is based upon the 17 years I spent as the Chief Law Enforcement Officer in Knox County, Tennessee, and upon my experience as the primary public safety policy maker for the county while in that position. It is also based upon on my 33 total years of experience as a Certified Policeman, and on the law enforcement and public safety training I received during my law enforcement career. In addition, I have personally been on the scene of sexual assaults and have personally arrested and helped prosecute male sex offenders, and those experiences have helped develop my opinions as well.

I have also considered various materials in forming my opinions, including the Complaints in the captioned cases and several other documents. All material I considered in forming my opinions is listed in Exhibit B and is attached as an appendix to this report.

I have formed the following opinions regarding the public safety effects of policies like the Charlotte Ordinance and the DOJ/DOE guidance, and the passage of North Carolina General Assembly House Bill 2 on March 23, 2016:

#### **A. Gender-Identity-Based Access Policies (GIBAPs) Pose a Genuine and Serious Public Safety and Privacy Threat**

1. H.B. 2 was made necessary when the City of Charlotte passed its “gender identity” ordinance (“GIBAP”). Public restrooms are crime attractors, and have long been well-known as areas in which offenders seek out victims in a planned and deliberate



way. Access policies to restrooms based on “gender identity” create real and significant public safety and privacy risks, especially in women’s and children’s restrooms/dressing rooms. These incidents are already occurring. For example, shortly after Target Corporation announced that it would adopt a GIBAP for its stores, two men were caught filming women in the women’s dressing rooms. These criminal acts were committed in two different states, North Dakota and New Hampshire,

2. Specifically, GIBAPs increase the risk of the full range of sex offenses in and near public facilities, from relatively minor offenses like peeping and indecent exposure to major offenses like forcible rape.
3. The Charlotte Ordinance and other similar GIBAPs (like the recently-announced DOJ and DOE access policy for schools) consider only one side of the equation. But by focusing completely on the transgendered, they totally ignore the safety and privacy risks these policies inevitably create. The Charlotte Ordinance and other GIBAPs provide fertile ground for those individuals already seeking ways to commit abuses against women and children. For example, on July 13, 2016, police arrested a man who identified as a transgender woman, after he was discovered taking pictures of women changing clothes in a Target dressing room in Idaho.
4. Anyone with responsibility for setting public safety policy has to consider all sides of every public safety problem. For example, as Sheriff, I was constantly having to balance the jail population under crowded conditions while creating a safe environment for the citizens. People pushing for the adoption of GIBAPs are downplaying or dismissing serious and legitimate public safety concerns because they do not see (or maybe do not want to see) the problem.
5. Once you see all sides of the problem in this case, a law like H.B.2 makes perfect sense from a law enforcement and public safety perspective.
6. The North Carolina Sheriffs Association agrees. Just before the General Assembly passed H.B.2, the NCSA Executive Committee issued a unanimous statement indicating that they “support legislation that would overturn local ordinances that allow persons of one gender to use the restroom of the other gender.”

## **B. Transgender Individuals Are Not the Source of This Threat**

7. The risks of GIBAPs do not come from transgender use of public facilities that do not line up with birth certificates. Rather, non-transgender male sex offenders who prefer female victims will use GIBAPs to obtain better access to their victims for different types of sex crimes.
8. In my experience, male sex offenders will take every opportunity they can to gratify their desires. They manipulate and abuse existing rules to gain access to their victims, and to keep their activities from being discovered whenever possible. Rape survivor Kaeley Triller captures the essence of my experiences and expectations perfectly: “They can’t be serious. Let me be clear: I am not saying that transgender people are predators. Not by a long shot. What I am saying is that there are countless deviant men in this world who pretend to be transgender as a means of gaining access to the people they want to exploit, namely women and children”. She further writes: “Don’t they know that one in every four little girls will be sexually abused during childhood, and that’s without giving predator’s free access to them while in the shower?” Kaeley Triller, “A Rape Survivor Speaks Out About Transgender Bathrooms,” *The Federalist*, November 23, 2015.

## **C. GIBAPs Threaten Public Safety Because They Embolden Non-Transgender Male Sex Offenders Attracted to Women and Children**

9. Under GIBAPs like the Charlotte Ordinance (or like the DOJ/DOE policy in many educational settings), pedophiles, sex offenders and voyeurs would now have a free “ticket” to enter spaces that should be private and safe.
10. They would no longer fear the local laws that currently help keep them out of women’s public facilities.

## **D. GIBAPs Will Increase Sex Offenses Ranging from “Nuisance” Offenses to Violent Sexual Assault**

11. By some conservative estimates, 96% of single-victim assaults are committed by males. And the overwhelming majority of male sex offenders prefer female victims.
12. Women and girls using public facilities are often in a vulnerable location and position. These areas are already a target for sex crime predators.
13. “Gender-identity”-based access policies would allow non-transgender men, who are now forbidden by law to go into a women’s restroom, to walk in and commit sex offenses without being as concerned about being confronted or arrested because of their apparent self-identified gender. There are numerous publicly-reported examples of that



happening in jurisdictions and facilities with GIBAPs in place. A partial list of such incidents is attached to this report as Exhibit B, but it is just the tip of the iceberg.

14. Sex offenders have to be good liars in order to avoid punishment, and they always have an excuse to explain what they are doing and why they are where they should not be.
15. My experience and training have taught me that many sex offenders start by peeping, stealing female under clothing, and other similar low-level offenses. But some start graduating to more serious sexual crimes and many move on to actual rape if they are not stopped early.
16. I have personally worked on complaints where an individual begins with lower-level sex crimes and escalates to rape/sexual assault over a period of a few years. For example, while I was a patrol officer, I started receiving multiple calls about a "peeping Tom" in a subdivision. We caught this individual numerous times. Then we started getting calls of exhibition by the same person, then eventually received rape complaints. This escalation of crime and increase in sexual assault violations took place over about a 3-year period. He was convicted and is still in prison. This person would target many of these people around women's restroom/changing rooms, but even he was afraid of trespassing by going in those public facilities for fear of being caught.
17. Sadly, even if caught early, many offenders still will move up to actual rape, in my experience.
18. Like most criminals, sex offenders know that U.S. jails and prison systems are at or over capacity. As a result, sex offenders face less deterrence that they otherwise would face, since they know that, for the most part, they will not spend a day behind bars for anything other than a serious offense.
19. As crowding in correctional facilities creates an atmosphere of them not likely to be jailed for most offenses, it minimizes current laws that keep them from trying to gain entrance into women's restroom and locker rooms.
20. Incentives for offending are also increasing along with improvements in technology. Small, easily hidden handheld electronic devices like smartphones have excellent cameras and video capture capabilities. The images captured by a sex offender on a modern smartphone are extremely high-quality, and can be uploaded to the internet almost instantly. This increases sex offenders' interest in accessing women's facilities.
21. These technological advances also increase the amount of potential harm GIBAPs cause women and children, both short term and long term.
22. With a GIBAP in place it opens the door to male sex offenders by handing them a target rich environment.

**E. Contentions that GIBAPs Have No Effect on Sex Offenses Are Highly Speculative and Almost Certainly Incorrect**

23. Some law enforcement personnel have claimed that the adoption of a GIBAP in their jurisdiction had no effect on the underlying rate of sex offenses. This is highly speculative and almost certainly untrue. In 2006 there were 300,000 college women raped. Among College women only 12% of rapes were reported to law enforcement.
24. According to the federal government's own statistics, only about 30% of sex crimes are reported overall. And many of those that *are* reported are serious sexual assaults. The reporting rate for so-called "nuisance offenses" (which are certainly not nuisances to the victims) is almost certainly even lower.
25. Many women do not report sex crimes for fear of being labeled in some way, because of the hassle of dealing with the court system, and/or because they do not want to testify publicly while having to face the sex offender again (even in the safety of the courtroom).
26. With a GIBAP in effect, sex crimes would increase, but an even larger percentage of those crimes would go unreported. In fact, children often delay reporting of sexual abuse until adulthood.
27. The decrease in reporting would not just be because victims and bystanders would be less certain that a violation had occurred. Most women are already afraid to report suspected crime or suspicious activity if they think that people will label them for making a report.
28. Even without formal GIBAPs in place, changing social norms have made people much less certain about gender issues, and more reluctant to report behavior that seems suspicious, like seeing a man in a women's facility. While it is good that society is becoming more accepting of different people, the fear of being accused of bigotry creates a public safety risk.
29. Non-transgender male sex offenders take advantage of every opportunity to increase their chances of successfully committing an offense. With a formal GIBAP in place, people will be even more worried about being accused of bias or bigotry if they report an offense.
30. Many of the offenses that are committed, including many that police do investigate—never result in charges being filed.
31. In some jurisdictions, if law enforcement doesn't charge an individual on a sex offense, they don't record it as a crime occurring. This further skews the reported statistics.
32. Some jurisdictions do not report crimes in their statistics if they are not solvable.

33. Though many women and young children would choose to leave a facility without reporting a sex offense, the scars from the crime would live on forever with these victims.
34. All of this explains in part why jurisdictions that have implemented GIBAPs might not see an increase in reported offenses.
35. Jurisdictions and organizations that have implemented GIBAPs also sometimes have incentives to understate their sex crime statistics, and will make reporting decisions designed to minimize the appearance of a sex offense problem. For example, colleges and universities interested in recruiting women for diversity purposes have an incentive to avoid reporting sex offenses whenever possible. In addition, if too many offenses are reported, enrollment would go down from parents not letting their daughters attend there.
36. Municipalities in which the police chief is an employee of an elected mayor may also underreport offenses, especially if accurate reporting would not line up with the mayor's politics.

**F. Current Laws Are Inadequate to Prevent Abuse of GIBAPs by Non-Transgender Male Sex Offenders**

37. In a world without GIBAPs, existing trespassing, indecent exposure, peeping and other laws deter at least some non-transgender male sex offenders (but not all) from entering women's facilities to commit offenses. It is really the only deterrent standing between the offenders entering the women's public facilities or not.
38. Some people who favor the adoption of GIBAPs claim that existing laws prohibiting trespassing, indecent exposure, peeping, and other sex offenses will keep problems from happening. That just isn't true. If someone could enter a public facility based entirely upon their "internal sense of gender," then law enforcement personnel, bystanders, and potential victims would have to be able to read minds in order to determine whether a man entering a women's facility was really transgender or was instead there to commit a sex offense.
39. To prove trespassing, you generally have to prove that the offender intentionally entered an area without permission. To prove trespassing based upon someone's presence in a public facility of the opposite sex, you have to prove that they were in fact the wrong sex, such that the signage outside the facility served as a "no trespassing" sign for that person. With a GIBAP in place, this becomes almost impossible to do, because the non-transgender male sex offender would simply have to claim that his "gender identity" was female to make successful prosecution difficult if not practically impossible.
40. And successful prosecution isn't the only problem. Another huge problem is that with a GIBAP in place, offenders aren't as likely to be observed by or reported to police in



the first place. Bystanders, victims, and even police will not have any reliable way of determining whether someone who appears to be male has a right to be in a female-only facility—even someone dressed in men's clothing can claim a female "gender identity."

41. The same is true for laws like peeping and indecent exposure. With a GIBAP in place, bystanders and victims will be less certain that offenders were actually getting sexual gratification from their acts. Is a biological male who displays his private parts to a woman while coming out of a women's restroom stall a flasher or transgendered? What about the biological male whose eyes wander while in a women's locker room?
42. Because the laws prohibiting indecent exposure and peeping also require proof of intent, it gets much harder to prove violations when a jurisdiction has adopted a GIBAP. And it gets much harder for victims and bystanders to be certain that an offense has been committed, and that their privacy has been violated.
43. While I was Sheriff, I saw an increasing number of sex crimes, and an increasing need for resources dedicated to sex crime investigations and sex offender monitoring. I started a Sex Crimes Task Force unit dedicating investigators assigned to that unit full time. Most agencies assign an investigator to sex crimes as a crime occurs and do not have those investigators working on that problem full time. They also carry a workload of other crime investigations. In the countless jurisdictions without the resources or political ability to create a dedicated sex crimes unit, sex offenses of all types will remain even more difficult to detect, prosecute, punish, and deter. This would make the problems caused by a GIBAP even worse.

#### **G. H.B.2 Was a Reasonable and Important Public Safety Response**

44. Laws like North Carolina H.B.2 are a reasonable and much needed response to the public safety issues created by policies like Charlotte's ordinance and the DOJ and DOE guidance letters.
45. These laws create an objective baseline for facility access, as opposed to GIBAPs, which instead require law enforcement officers, potential victims, and bystanders to be mind-readers.
46. Consistent and clear definitions are extremely important to effective law enforcement. It is very important for law enforcement to have a clear definition of when someone who was born a biological male should be treated as a female. H.B.2 helps law enforcement and others who might be responsible for securing safe environment by creating an objective standard.

47. Under the Charlotte Ordinance or the DOJ/DOE policies, the standard for access determined entirely by the individual's "internal sense" of gender. This means that there are no objective characteristics that can be used to determine whether someone is accessing a facility for illegal purposes.
48. While increasing acceptance of gender differences is a good thing generally, changing social conventions make citizens less certain that offenses have occurred and less willing to report those offenses regardless.
49. H.B.2 reestablishes the objective criteria necessary to protect public safety and privacy in public facilities.
50. Specifically, Part I of H.B.2 makes it harder for non-transgender male sex offenders to gain access to female victims without getting caught, because it creates an objective standard and because it sends a signal to victims, law enforcers, and prosecutors that it is acceptable to report, investigate, and prosecute violators. This protects both public safety and the privacy rights of potential victims.
51. Part I also makes it clear that authorities (and sometimes even bystanders) have the right to keep people who are obviously biologically male out of womens' and girls' facilities. This further reduces the risks of all types of sex crimes that might be committed in those facilities, protecting both the safety and the privacy of women and girls.
52. Even the federal government recognizes the need for these criteria in many contexts. For example, the State Department requires medical proof that an applicant is transitioning sex before it will issue a passport reflecting the applicant's preferred sex. And such passports are only valid for two years instead of the ordinary ten unless the applicant has completed the transition surgically.
53. The Bureau of Prisons has similar guidelines for the treatment of transgender inmates, and even the Department of Defense looks at objective criteria—not simply an Armed Forces member's "internal sense of gender" to determine how to treat them.

#### **H. H.B.2 Also Protects the Privacy Interests of Women and Children**

54. Women and children have a right to privacy and safety when going into a women's restroom or locker room.



55. GIBAPs increase the risk to our most vulnerable citizens: women and children in the confined and supposedly private spaces of women's restrooms, locker rooms, and other public facilities.
56. Some of the harms sex offense victims suffer from so-called "nuisance" offenses like peeping are really privacy harms. We have made peeping illegal because victims have a privacy right not to have their private parts viewed by members of the opposite sex involuntarily.
57. The same is true for offenses like indecent exposure, especially in the context of multi-user facilities. When indecent exposure happens in a public facility, part of the harm is that a woman or child is forced to see something they reasonably expected they would not have to see in such a location.

### **Conclusion**

28. I reserve the right to supplement or amend this report as additional statements, facts or information are received. My opinion is my own, and is not based on any compensation received in connection with this report. My fee includes review, preparation, deposition (4-hour minimum) and trial testimony and is \$200.00 per hour. Out-of-state per-diem is \$500.00 a day. Travel from portal to portal is \$100.00 hour. I have rendered expert opinions in the following cases over the last four years. All were in the U.S. District for the Eastern District of Tennessee:

- Adkins v. Hensley, 2:14-cv-38 (E.D. Tenn.)
- Silvers v. Unicoi County, 2:15-cv-84 (E.D. Tenn.)
- Shelton v. Hensley, 2:14-cv-321 (E.D. Tenn.)
- Tilson v. Unicoi County, 2:14-cv-2014 (E.D. Tenn.)

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



Tim Hutchison  
5817 Attleboro Drive  
Powell, TN 37849  
865-659-5555

**Exhibit A: Curriculum Vitae of Tim Hutchison**

**Education:**

- Graduate West High School, Knoxville, Tennessee
- Graduate Tennessee Law Enforcement Academy, Nashville, Tennessee
- Graduate F.B.I. Academy, Quantico, Virginia
- Associates Degree Criminal Justice, Walters State College, Tennessee
- Counter Terrorism Training, Israel

**Experience:**

- Served 33 years at Knox County Sheriff's Office, Tennessee
- Served as:
  - o Process Server
  - o Jailer
  - o Detective
  - o Sergeant, Traffic Division
  - o Lieutenant, Patrol Division
  - o Certified Firearms Instructor/Use of Lethal Force Instructor
  - o Original Department S.W.A.T. Team Member (1978-86)
  - o FBI Certified Anti-Sniper
  - o FBI Certified Hostage Negotiator
  - o FBI Certified Instructor
  - o FBI Advanced Firearms Instructor
  - o FAA Licensed Helicopter Pilot
- Elected 5 terms as Sheriff of Knox County, TN (1990-2007)
  - o Department size approximately 1,005 staff
  - o Approximately 480 Certified Officers
  - o Prepared and managed annual budget of over \$55 million
  - o Served on Tennessee Peace Officers Standards and Training Commission (P.O.S.T.) (1994-2004)

- Served as Chairman of P.O.S.T Commission
- National Sheriff of the Year 1998- National Sheriff's Association.
- Certified as a Homeland Security Expert
- Managed Public Safety /Emergency Response to Several Disasters

**Accomplishments:**

- Returned over \$17 million saved to Knox County General Fund while Sheriff.
- As Sheriff, started numerous programs at little or no cost to taxpayers.
- S.W.A.T. Team member 1978-1986.
- Completed numerous Internal Affairs and Police Civil Liability Schools
- Worked on over 100 Homicides with a Department solve rate over 90%
- Attended multiple specialized police schools
- Acquired at no cost to tax payers 6 Helicopters and started a Police Aviation Unit
- Started a Marine Patrol Unit
- Planned and built 2 jails while Sheriff at cost of \$30 million and \$600,000
- Planned and built a Training Center consisting of class rooms, 50- point outdoor range and a 20- point indoor range using inmate labor and drug fine money to save tax dollars
- Started a K-9 unit with drug/patrol and cadaver dogs
- Started a Sex Offender Task force which was lauded by the T.B.I.
- Started a computer crimes unit
- Secured over \$6.9 million in Federal Grants
- Started a Tennessee State P.O.S.T. Certified Police Academy that has graduated hundreds of Certified Police Officers for numerous agencies.
- Started a Citizens Academy
- Implemented a Chaplain's Corps
- Started the S.C.A.N. Unit (Senior Citizen Awareness Network) which consists of volunteers checking on elderly citizens' wellbeing and aids neighborhood watch
- Started a TEEN Academy
- Placed Police Officers in all High Schools, Middle Schools and most Elementary Schools
- Implemented a dialogic phone system to notify citizens of dangers in their area
- Adjusted patrol zones to reduce response time and combat crimes based upon statistical analysis

- Coordinated Security for 2 visits by former President Ronald Reagan and 2 visits by former President George W. Bush
- Started a bomb squad and acquired 2 bomb robots
- Recognized by the Consul General of the State of Israel in a special ceremony for counter-terrorism training.

**Other Experience:**

- Licensed general contractor- residential and commercial since 1973
- Worked construction/ disaster relief Tuscaloosa, Alabama-2011
- Worked construction/ disaster relief Joplin, Missouri-2011
- Licensed private investigator and consultant retained by plaintiffs and defendants in suits against government entities

Additional information at [www.timhutchison.net](http://www.timhutchison.net)

Tim Hutchison 865-659-5555

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**Exhibit B: Documents Reviewed By Tim Hutchison**

1. Complaint, U.S. v. North Carolina, et al., No. 1:16-cv-00425-TDS-JEP
2. Complaint, Joaquin Carcaño et al. v. North Carolina, et al., No. 1:16-cv-00236-TDS-JEP
3. List of Publicly-Reported Incidents (attached as Exhibit C)
4. Expert Declaration of Aran C. Mull
5. North Carolina House Bill 2
6. U.S. DOE Policy and Practices for Supporting Transgender Students
7. North Carolina Sheriff's Association Executive Committee Letter of Support NC HB-2
8. U.S DOD Directive-type Memorandum 16-005 "Military Service of Transgender Service Members
9. NCAA Inclusion of Transgender Student Athletes
10. Article Idaho July 13, 2016 "Transgender Person Arrested For Taking Pictures Of Woman in Target Dressing Room", charged with a Felony. Daily Caller
11. Article from rape survivor Kaeley Triller, Published 11-2015, The Federalist
12. Article Bedford, New Hampshire, July 1, 2016 " Man arrested after allegedly filming girls in Target dressing room" Lifesite
13. Article Huffington Post 2015, "University of Toronto Dumps Transgender Bathrooms After Peeping Incidents"
14. Article Bismarck, N.D. June 16, 2016 "Teen girl reports dressing room peeper at Target" Forum News Service
15. Article February 26, 2014, Toronto Sun, "Predator Who Claimed To Be Transgender Declared Dangerous Offender"
16. U.S. DOJ Crime Statistics
17. Drug – Facilitated, Incapacitated, and Forcible Rape: A National Study, 2007
18. U.S. State Department Policy " Gender Transition Applications
19. Canadian Center for Child Protection, "Child Sexual Abuse-It's Your Business", November 2012
20. Article 2016 Texas, Austin American States, Indecent Exposure to a Child in Target Store



- 21.2016 Washington, Daily News KING 5, Man Goes Into Women's Locker Room at Public Pool (two separate instances) While Young Girls Changing After Transgender Law Passed
- 22.Virginia, 2016, NBC Washington, Man Arrested Dressed as Woman Filming Women in Shopping Mall
- 23.2016, Tennessee, WKRN, Man arrested for filming in women's restroom at public park
- 24.2016, California, Orange County Register, Man arrested for placing cellphone to record video in women's restroom at University
- 25.2016, California, Mercury News, Man arrested for recording others in bathroom
- 26.2016, Florida, WPLG, Restaurant manager arrested for installing camera in women's restroom
- 2016, Ohio, Cleveland Plain Dealer, Junior high boy tapes junior high girl in school restroom, distributes video to others

Exhibit C: List of Publicly-Reported Incidents

Year (Press Report)	State/Province	City/County	Offender Name	Description	Source
2016	TX	Cedar Park	Roel Anthony Vasquez	Indecent exposure to child in Target store (appears to have been in men's room)	<u>Austin American Statesman</u>
2016	WA	Seattle	Unknown	Just after NDO goes into effect, man uses women's locker room at public pool	<u>NY Daily News</u> ; <u>King 5 News</u>
2016	VA	Prince William County	Richard Rodriguez	Man dressed as woman arrested for filming women at Potomac Mills Mall	<u>NBC Washington</u>
2016	TN	Smyrna	William Ted Davis	Man arrested for filming in women's restroom at public park/softball complex	<u>WKRN</u>
2016	CA	Fullerton	Jihwhoo Ahn	Man arrested for placing cell phone to record video in women's restroom on University campus	<u>Orange County Register</u>
2016	CA	San Jose	Andrew Donahue	Man arrested for recording others in his bathroom	<u>Mercury News</u>
2016	NJ	Pitman	Thomas Guzzi, Jr.	Man nabbed in child pornography ring sting operation also placed tablet computer in theater rehearsal space restroom	<u>Courier-Post</u>
2016	WA	Colfax	Michael A. Novak	Man arrested for filming women in bathrooms in his home, their homes	<u>KHQ</u>
2016	FL	Miami	Hajime Maruyana	Restaurant manager arrested for installing camera in women's restroom.	<u>WPLG</u>
2016	OH	Perrysburg	Undisclosed	Junior high boy tapes junior high girl in school restroom; distributes video to others	<u>Cleveland Plain Dealer</u>
2016	MD	Prince Georges County	Deonte Carraway	Volunteer teacher and choir leader directed children in sexually explicit videos filmed in school bathroom	<u>WPGC</u>
2016	FL	Wilton Manors	Marek Amann	Man tapes women using his restroom	<u>Local10 (ABC affiliate)</u>
2016	IN	Martinsville	Justin Carl Behnke	Former Chili's manager charged with videotaping 8 women changing clothes/using restroom	<u>WBIW</u>
2016	OK	Logan County	James Curt Rose	Man videotapes 13-year-old taking a shower with cell phone (saw lens poking out through a sleeve that was hanging in bathroom)	<u>KFOR</u>

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2016	IA	Iowa City	Undisclosed	Police locate "person of interest" in connection with man videotaping woman while showering in residence hall	KCRG
2016	PA	Lancaster	James Thomas Shoemaker	Man arrested after being caught hiding in stall of women's bathroom, taking photos of young girls	WGAL
2016	ID	Ammon	Sean/Shaina Smith	Man dressed as woman accused of taking photos of women undressing in Target changing room	East Idaho News
2016	CT	Stamford	Isaiah Johnson	Transvestite Johnson and two other transvestites arrested for luring special needs teen into bathroom and sexually assaulting him	The Hour
2016	NY	Huntington	Jose Rivas	Dishwasher places cellphone camera in employee restroom	Bryan-College Station Eagle
2016	LA	Baton Rouge	Michael Lee Jackson	Man arrested for placing mirror and cell phone under stall in women's restroom.	The Advocate
2016	IL	Alton	Matthew Banks	Man arrested for photographing woman up her dress and watching group of children at swimming class (already registered sex offender)	KSDK
2015	NJ	Lyndhurst	Mitchell Morreale	Former fire captain/youth football coach videotaped girls as they used his restroom during pool party	The Record
2015	AL	Marshall County	David Barrow	Former girls' soccer coach pled guilty to human trafficking and producing pornography with minors. Used hidden cameras in locker room and restroom.	WAFF
2015	CA	Brea	Melcher Carillo Alvarado	Man arrested for placing hidden camera in Starbucks unisex bathroom	NBC Los Angeles
2015	Ont.	Toronto	Unknown	Two separate incidents of voyeurism in gender neutral restrooms cause U of T to retreat from headline gender neutrality	The Varsity
2015	CA	La Habra	Unknown	Camera found in Del Taco restaurant restroom	NBC Los Angeles
2015	NY	New York	Sean Shaynak	Crossdressing high school teacher charged with preying on 6 female students.	NY Daily News
2014	CA	Clairemont	Gregory Philip Schwartz	Schwartz dressed in a Barbie costume before entering a women's restroom and attempting to rape a female occupant.	NBC San Diego

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2014	PA	Halifax Township	Austin Christopher Wikels	Crossdresser accused of taking part in luring woman to hotel room and taking part in group sexual assault	<u>Pennlive</u>
2014	AK	Anchorage	Travis Felder	Crossdressing man charged with sexual and other assault, burglary, etc.	<u>ADN.com</u>
2013	CA	Palmdale	Jason Pomare	Man dressed as woman arrested for filming women in Antelope Valley Mall Macy's restroom	<u>NBC Los Angeles</u>
2013	CA	San Bernardino County	Rodney Kenneth Petersen	Man dressed as woman arrested after attempting to take cell phone photos of women in women's-only areas of college campuses	<u>LA Times</u>
2013	OK	Oklahoma City	Christopher Todd Gard	Man wearing only women's panties assaulted 8-year-old girl inside convenience store bathroom	<u>News9</u>
2013	AR	Bergman	Carl Dahn	Man arrested for child pornography and internet stalking of child wearing women's clothing when police arrive	<u>Harrison Daily</u>
2013	MI	Onsted	Sean Gossman	Crossdresser appears in court to face child pornography charges dressed as woman	<u>ClickOnDetroit</u>
2013	OR	Portland	Michael Leroy Moore	Crossdresser accused of placing sexually explicit ad about little girl on Craigslist	<u>Oregon Live</u>
2013	VA	Falls Church	Carlos Guillermo Suarez Diaz	Man dressed as woman sexually assaulted 17-year old girl	<u>Washington Post</u>
2013	FL	Fort Myers	John Maatsch	Married man with master's degree and good job attacks woman in apartment, stabbing her three times. Later returns to scene dressed in women's clothing (plea deal for 15 year sentence)	<u>nbc-2.com</u>
2013	Ont.	Toronto	Darren Cottrelle	Man dressed as woman arrested for using mirror to peer under bathroom stall	<u>Toronto Star</u>
2012	Ont.	Toronto	Christopher Hambrook	Man claiming to be transgendered assaulted two women at shelters	<u>Toronto Sun</u>
2012	WA	Everett	Taylor J. Buehler	Man in bra and wig found in women's restroom; later admitted to officers he was suspect in earlier voyeurism incident at Everett Community College	<u>Seattle Post-Intelligencer</u>
2012	WA	Olympia	Undisclosed	45-year-old transgender college student with male genitalia exposes self in women's locker room and sauna	<u>ABC</u>



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2012	OH	Lisbon	Aaron L. LaGrand	Crossdressing man gained trust of Ohio family, then molested children	Review Online
2012	CA	Thousand Oaks	Unknown	Man dressed as woman approaches children playing; exposes self to them.	<a href="#">CBS Los Angeles</a>
2011	OR	Milwaukie	Thomas Lee Benson	Convicted sex offender dressed as woman went into women's locker room at public pool and talked to several children before being chased down	<a href="#">Oregon Live</a>
2011	CA	La Mesa	Unknown	Middle-aged man dressed as woman enters women's restroom asking to shake hands with women	<a href="#">Patch.com</a>
2011	CA	Sacramento	Renell Thorp	Crossdressing man arrested for rape after home invasion	<a href="#">CBS Local Sacramento</a>
2010	CA	Berkeley	Gregorio Hernandez	Man dressed as woman to access Berkeley locker room, used cell phone to photograph women	<a href="#">Boston.com</a>
2010	GA	Duluth	Donnie Lee	Crossdressing man arrested for looking into apartment windows; second arrest	<a href="#">WSBT</a>
2010	GA	Calhoun	Norwood Smith Burnes	Man dressed as woman in Wal-Mart arrested for taking clothes off in front of children	<a href="#">Northwest Georgia News</a>
2010	CO	Boulder	Wesley Francis Cox	Serial sex offender admits to "decades" of offenses including photographing teenagers, videotaping couples having sex and stealing women's panties	<a href="#">Daily Camera</a>
2009	CA	San Jose	Richard Rendler	Man dressed as woman arrested for wearing fake breasts and wig while loitering in women's restroom. Previously arrested on child molestation and indecent exposure charges	<a href="#">Mercury News</a>
2009	AR	North Little Rock	Scotty Vest	Man dressed as woman masturbates in public, attempts to lure 10 and 12 year old girls into restroom	<a href="#">Fox16</a>
2009	OK	Oklahoma City	Philip John Ortega	Crossdressing man exposes himself to woman on street	<a href="#">News9.com</a>
2008	IN	West Lafayette	Unknown	Man dressed as woman takes photos in women's restroom on Purdue campus (flip phone camera under stall door)	<a href="#">Purdue University News</a>
2004	PA	Greensburg	Robert Domasky	Man dressed as cheerleader enters girls locker room at high school	<a href="#">Tribune-Review</a>